

MCC 52.237-70 PERSONAL SERVICES – GENERAL TERMS AND CONDITIONS (JULY 2012)

- a) *Personal Services Contracts with U.S. Citizens* - This Personal Services Contract is authorized under Section 614(a)(8) of the Millennium Challenge Act of 2003 (MCA). The provision provides that such individuals shall not be considered Federal employees for any provision of law administered by the Office of Personnel Management (OPM). A personal services contract establishes an employer-employee relationship, making the personal services contractor (PSC) subject to the relatively continuous supervision and control of the MCC. ([FAR 37.104](#)). By law and by the terms of this personal services contract, subject PSC shall be subject to most of the laws, rules, and regulations applicable to U.S. Government employees, including the financial disclosure and conflict of interest laws and regulations as well as MCC regulations. However, under the MCC personal services contract authority, PSCs are not employees for purposes of laws administered by OPM, such as Federal retirement benefits and health and life insurance. PSCs may be assigned inherently governmental duties. ([FAR 7.502](#)). However, it is MCC policy that PSCs shall not complete annual performance evaluations, hire or terminate the employment of MCC direct-hire employees.
- b) *Required Data* - The Personal Services Contractor (PSC) shall submit the following required forms to the Contracting Officer:
- 1) IRS Form W-4, Employee's Withholding Allowance Certificate (will be attachment to contract);
 - 2) State and local tax forms (if applicable)(will be attachment to contract);
 - 3) Form I-9, Employment Eligibility Verification (include copy of verification documents);
 - 4) A signed [PSC confidentiality agreement](#) statement;
 - 5) Financial disclosure reports: [SF 278, Executive Branch Personnel Financial Disclosure Report](#), or [OGE 450, Confidential Financial Disclosure Report](#), as required;
 - 6) [SF 86, Questionnaire for National Security Positions](#), if a security clearance is required. PSCs may receive a preliminary clearance and be placed under contract before receipt of clearance. Failure to obtain clearances is cause for termination;
 - 7) [SF 85P, Questionnaire for Public Trust Positions](#), if a security clearance is not required. Note that all PSCs are required to have either a security clearance (SF 86) or a background investigation (SF 85P);
 - 8) Emergency Contact Information (Provide the name, address, and phone number for two emergency contacts).
 - 9) Date of birth (will be entered on the signature page of the contract).
 - 10) Office of Security Personal Information Request Form (Please complete and return to MC by FAX (202) 521-3590) as soon as possible.
- c) *Ineligibility for Civil Service Retirement System (CSRS), Federal Employees Retirement System (FERS), Federal Health and Life Insurance, and the Thrift Savings Plan* - Subject PSC is not eligible for federal retirement and insurance benefits in the same manner as provided to direct hire employees.

- d) *Sick Leave.* The PSC will accrue four (4) hours of sick leave for every biweekly pay period. Sick leave balances can be carried over into other MCC personal services contracts. The MCC does not compensate for unused sick leave at the end of the contract.
- e) *Annual Leave.* The PSC will accrue four (4) hours of annual leave for every biweekly pay period. After three (3) years of qualifying service as a PSC or direct hire by any federal government entity, annual leave will increase to six (6) hours every pay period. After fifteen (15) years of qualifying service as a PSC or direct hire by any federal government entity, annual leave will increase to eight (8) hours every pay period. Annual leave balances can be carried over into other MCC personal services contracts. Upon termination, a PSC will be paid for accrued annual leave not to exceed 240 hours, subject to availability of funds.
- f) *Holidays and Other Days Closed.* Subject PSC may be paid at its regular hourly rate for ten (10) federal holidays and other days that MCC is closed--such as for inclement weather and local in-country holidays, with supervisory/COR approval.
- g) *Parking/Transit Subsidy.* Subject PSC is eligible for parking or metro subsidy on the same basis as MCC direct-hire employees, only if PSC is permanently located in the Washington, D.C. area, subject to availability of funds.
- h) *Credit Hours.* Subject PSC shall be eligible for credit hours on the same basis (up to 24 hours earned) as direct-hire employees under the MCC Credit Hour Program. Employees may not receive credit hours for time spent in travel status. The PSC shall be compensated for the credit hour balance upon termination, subject to availability of funds.
- i) *Compensatory Time Off for Travel.* Subject PSC shall be eligible for Compensatory Time Off for Travel, on the same basis as direct-hire employees, in accordance with MCC policy A&F-2010-4.1. Compensatory time off for travel may be earned in fifteen (15) minute increments, for time spent in travel status away from the employee's official duty station, when such time is not otherwise compensable. Employees may not receive credit hours for time spent in travel status. Travel for the purpose of this provision means official travel to accomplish MCC business and must be approved by an authorized MCC official. Compensatory time off should be used before accrued annual leave except when this would cause a forfeiture of annual leave in excess of the annual leave ceiling or restored leave due to expire in the current leave year. Compensatory time off for travel shall be forfeited if not used by the end of the 26th pay period after the pay period during which it was earned and upon termination or expiration of contract.
- j) *Taxes and Withholdings.* MCC pays the employer contribution to FICA and Medicare for this contract. MCC shall withhold employee contribution to FICA, Medicare, federal tax, and state tax.

k) *PSC Travel.* All travel will be conducted in accordance with the Federal Travel Regulation (FTR), 41 C.F.R. 301, Department of State regulations, and MCC travel policy. The Government shall pay the Contractor for travel costs and other direct costs in conjunction with services required for the performance of subject contract. If travel is required on subject contract, Contractor will be notified by the COR and will request a travel authorization through the E-Travel website (<https://ets.prod.carlson.com>). The Government shall pay the Contractor reasonable per diem as specified in the Federal Travel Regulation, 41 C.F.R. 301, and any other transportation expenses if provided for in the Schedule. Upon completion of travel, Contractor shall submit a travel voucher for reimbursement of all travel and other directly related costs. Reimbursement of travel expenses will occur upon approval of the travel voucher by the COR and other MCC approval authority. Overseas travel costs include international air travel, per diem allowances (per State Dept/GSA), local transportation, and other miscellaneous costs such as Passports, Medical Examination, etc. Domestic air travel is determined based on predetermined rates for specific travel. Per diem allowances are costs predetermined and set by General Services Administration and compliance is governed by the Federal Travel Regulation.

l) *Federal Employees Compensation Act.* Under certain circumstances, PSCs may be eligible to receive benefits for injury, disability, or death under FECA. The Department of Labor determines eligibility, and payment is subject to availability of funds.

m) *Salary and Benefits Adjustments.* Salary changes and personnel-related contract actions, if any, will be processed via a contract modification to the personal services contract.

n) *Payment.* Regular full-time PSCs shall submit the [Time Sheet \(long term\)](#) on a biweekly basis. Timesheets must be approved by the Contracting Officer Representative (COR) and/or the Project Monitor (PM). The PSC shall submit an invoice to the COR for other direct costs which are approved in advance by the CO/COR. Invoices must be approved by the COR.

- o) *Release of Confidential Information.* Confidential information, as used in this section means (a) proprietary or personal information or data about an individual, or (b) information or data submitted by or pertaining to an institution or organization. Confidential information does not include information that (a) is, or becomes, public, (b) becomes known to the PSC on a non-confidential basis from a third-party source, or (c) is required to be disclosed by law or legal process. The PSC must coordinate any request for release of confidential information with the MCC's Freedom of Information Act/Privacy Act Officer. If the PSC is uncertain as to whether a particular piece of information is confidential, the PSC shall consult with the Freedom of Information Act/Privacy Act Officer before releasing the information outside the MCC. The PSC will follow the rules and procedures of disclosure set forth in the Privacy Act of 1974 ([5 U.S.C. 552a](#)) and implementing regulations and policies, with respect to all information subject to the Privacy Act.
- p) *Organizational Conflicts of Interest for Personal Services Contracts.*

1. **Organizational Conflicts Of Interest: Preclusion From Implementation Contract.** Work under this contract may call for the Contractor to furnish important services in support of the design or feasibility of specific activities that may become part of a Millennium Challenge Corporation (MCC) Compact. In accordance with the principles of FAR Subpart 9.5, the contractor may be ineligible to furnish, as a prime or subcontractor or otherwise; the implementation services for any activities for which it provides substantial design services except for such services that may be furnished under this contract. If a determination is made that the contractor is ineligible for implementation services, the MCC Managing Director of Contracts and Grants Management may authorize a waiver (in accordance with FAR 9.503) if the Director determines that preclusion of the Contractor from the implementation contract would not be in the Government's best interest.

2. **Organizational Conflicts Of Interest: Preclusion From Furnishing Certain Services And Restriction On Use Of Information** Assignments under this contract may call for the PSC to furnish important services in support of evaluation of contractors or of specific activities. In accordance with the principles of FAR Subpart 9.5 and MCC policy, the PSC shall be ineligible to furnish, as a prime or subcontractor or otherwise, implementation services under any contract or assignment that results in response to findings, proposals, or recommendations in an evaluation report written by the PSC. This preclusion will apply to any such awards made within 18 months of MCC accepting the report, unless the head of the contracting activity authorizes a waiver (in accordance far 9.503) determining that preclusion of the PSC from the implementation work would not be in the Government's interest. In addition, by accepting this contract, the PSC agrees that it will not use or make available any information obtained about another organization under the contract in the preparation of proposals or other documents in response to any solicitation for a contract or task order. If the PSC gains access to proprietary information of other organizations in performing this evaluation, the contractor must agree with the other organizations to protect their information from unauthorized use or disclosure for as long as it remains proprietary, and must refrain from using the information for any purpose other than that for which it was furnished. The PSC must provide a properly executed copy of all such agreements to the contracting officer.

q) *Medical Evaluation.* MCC provides medical evacuation insurance to all its travelers through Global Rescue. In the event a traveler needs evacuation (and Global Rescue concurs), the traveler will be evacuated. This coverage is not the same as a traveler's health insurance. Travelers still need adequate health insurance in addition to their Global Rescue coverage. Travelers are responsible for obtaining a Global Rescue identification card from the TMC office and ensuring that the Global Rescue Contracting Officer Representative (COR) or Program Manager (PM) is notified to add their name to the policy to ensure coverage.

r) *Warranty Against Dual Compensation.* The Contractor certifies that, except for the compensation set out in this contract, she/he is not receiving any additional wages, compensation or gifts from the MCC for any work contemplated or performed under or in connection with this contract.

s) *Other Benefits.* The Contractor is not eligible to participate in the federal health or life insurance programs.

t) *Information Technology (IT) Equipment Authorization.* PSCs with a permanent duty station at MCC Headquarters or in one of the MCC overseas offices are authorized to receive a Blackberry, laptop or desktop computer, subject to COR and Chief Information Officer (CIO) approval. MCCNET IT login accounts are contingent upon the Chief Information Security Office (CISO) receiving notification of a successful background investigation by the MCC Office of Security. If a PSC, whether full time or intermittent, requires access to MCCNET, they must complete the MCC on-boarding process (including a successful background investigation). The MCC CISO must approve all account activations on the MCC Network.

u) *Federal Laws.* The PSC is subject to all laws, rules and regulations governing the behavior of regular Federal employees, including, without limitation, the Anti-Deficiency Act and the laws and regulations governing the ethical conduct of employees of the Federal Government. All laws and amendments to laws enacted after the date of this contract, which are applicable to the Contractor, shall be incorporated herein by law without the need to amend the contract. Nothing in this clause shall give the Contractor rights which the Contractor is not otherwise entitled to under law. The Contractor is specifically forbidden to seek other compensated work in a country on a subject for which the Contractor provided services under this Contract for a period of two years following termination of this Contract.

TIME SHEET INSTRUCTIONS

The contractor shall submit time sheets for actual hours worked.

Time sheets shall be sent to the COR and/or the PM on the first Monday after the end of the pay period. The COR and/or the PM will approve the time sheets and will forward to the Interior Business Center (IBC). IBC processes payroll checks via direct deposit in the PSC bank account on the second Tuesday after the end of the pay period.

If it is determined that the time is incorrect the time sheet may be revised by the Government, or the Contractor may be required to submit a revised time sheet.

To constitute a proper time sheet, each time sheet must include the following information:

- (1) Name of the Contractor
- (2) Date of pay period
- (3) Contract number; also modification number, if applicable
- (4) Duns number
- (5) Employee Signature

Inquiries regarding the status of payroll may be directed to IBC Accounting. The email address is: MCC_Accounting_IBCDENVER@ibc.gov. (there are two underscores in this email address (1) after the first three characters (2) after the second set of characters.

(End of clause)

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FEDERAL LAWS

The Contractor is subject to all laws, rules and regulations governing the behavior of regular Federal employees, including, without limitation, the Anti-Deficiency Act and the laws and regulations governing the ethical conduct of employees of the Federal Government. All laws and amendments to laws enacted after the date of this contract, which are applicable to the Contractor, shall be incorporated herein by law without the need to amend the contract. Nothing in this clause shall give the Contractor rights which the Contractor is not otherwise entitled to under law. The Contractor is specifically forbidden to seek other compensated work in a country on a subject for which the Contractor provided services under this Contract for a period of two years following termination of this Contract.

(End of clause)

FACILITIES

The contractor will be provided with office space, telephone, computer equipment, and other usual and customary office supplies, as needed.

(End of clause)

MCC 52.201-70 CONTRACTING OFFICER'S REPRESENTATIVE (COR) AND/OR PROJECT MONITOR (PM) (JULY 2012)

(a) The Contracting Officer may designate a Government representative to act as the Contracting Officer's Representative (COR) or Project Monitor (PM) to perform functions under the contract such as review and/or inspection and acceptance of supplies, services, including construction, and other functions of a technical nature. The Contracting Officer will provide a written notice of such designation to the COR and/or PM and the Contractor. The designation letters will set forth the authorities and limitations of the COR and/or PM under the contract.

(b) Modifications to this contract are effective only if reduced to writing and executed by the Contracting Officer. The Contractor is specifically prohibited from performing any work that is outside the scope of this contract without the approval of the Contracting Officer. The Contracting Officer cannot authorize the COR or any other representative to sign documents (i.e., contracts, contract modifications, etc.) that require the signature of the Contracting Officer.

(End of clause)

MCC 52.203-70 CONTRACTOR NON-DISCLOSURE AGREEMENT (JULY 2012)

All contractor employees or independent contractors engaged in this contract shall provide a non-disclosure agreement as follows signed by the individual contractor/consultant and, if a contractor employee, by the contractor's contract administrator:

NON-DISCLOSURE AGREEMENT

I, **(contractor employee's name)** do solemnly swear (or affirm) that I will not divulge any information, whether obtained orally or in writing from, or data maintained by (Confidential Information) the Millennium Challenge Corporation (MCC) to any unauthorized person for any purpose. I will not directly or indirectly use, or allow the use of Confidential Information for any other purpose other than that directly associated with my officially assigned duties for MCC.

Further, I will not directly or indirectly reveal or cause to be revealed the nature or content of any (Confidential Information), except to authorized personnel.

I am aware that the unauthorized use of information may be a violation of law and this Agreement.

Company or Subcontractor

Understand that authorized persons refer only to persons assigned to a project requiring access to Confidential Information or directly in the line of management over the project requiring access to the data.

[Signatory]

Contract Administrator

Date

(End of clause)

MCC 52.204-70 SECURITY REQUIREMENTS FOR CONTRACTOR PERSONNEL (MAY 2013)

Contractor employees and/or subcontractor personnel, while on MCC premises, shall be subject to and abide by all safety and security regulations of the MCC and shall be required to meet the same personnel security background requirements as MCC employees as outlined in MCC policies and procedures, including MCC's Background Investigations and Clearances (Security Clearances and Facility Access Clearances) for Federal Employment, Contract Service and/or Volunteer Service at the Millennium Challenge Corporation (MCC's Background Investigations and Clearance policy).

A. Contractor Personnel Facility Access Requirements (including offsite MCCNet access)

Contractor candidates hired to work under contracts awarded by MCC and require access to MCC Headquarters, MCCNet, Sensitive But Unclassified (SBU), Foreign Government Information (FGI) or other MCC-Sensitive information must be U.S. citizens or have Permanent Resident Status in the U.S. Contractor candidates will undergo a background investigation for a facility access clearance (a.k.a. a "favorable suitability" determination per MCC's Background

Investigations and Clearance policy. The screening will determine the candidate's suitability and fitness for work under MCC contracts. The background investigation will consist of a National Agency Checks with Law and Credit (NACLC) for a Moderate Risk Public Trust (MRPT) position and fingerprint imaging to be reported to FBI national databases and reported to MCC's Security & Office Services-Security Office (MCC/Security).

For contract positions with and in support of an MRPT position, a non-U.S. citizen foreign national (FN) who has Permanent Resident Status in the U.S. (a.k.a. holds a valid Alien Registration Card, commonly referred to as a "green card," although the actual card is no longer green), the contractor candidate must have been residing, working and/or attending school in the U.S. for the last two (2), preferably three (3), years in order for a meaningful background investigation to be conducted and the contractor candidate will be required to report all residences, work venues and/or school registrations for the last seven (7) years. Processing a MRPT background investigation for a foreign national with Permanent Resident Status may require waiting for receipt of a final Report of Investigation, at the discretion of MCC/Security, which might take up to 120 days after the candidate's reviewed background submission is released by MCC/Security for assignment to an investigator.

MCC/Security can only make a determination of a contractor candidate's eligibility to meet facility access clearance requirements when the candidate completes an on-line Questionnaire for Public Trust Positions (SF-85P) and Supplemental Questionnaire for Public Trust Positions (SF-85PS) via OPM's electronic Questionnaire for Investigations Processing (e-QIP) which MCC/Security initiates and e-mails instructions to the candidate.

Contractor is required to have all affected personnel execute appropriate security forms, starting with MCC/Security's Personal Information Request Form (which must be completed, signed by the candidate and faxed to MCC/Security at 202-521-3590) as well as the SF85P/SF-85PS, related signature releases and supplemental forms and submit to fingerprint imaging) as well as the SF-85P/SF-85PS, signature releases and supplemental forms and submit to fingerprint imaging) to MCC/ Security within seven (7) days after MCC/Security e-mail request is sent before a determination will be made with regard to the contractor candidate's access to MCC Headquarters or overseas RCD offices and/or MCCNet is approved. Contractor candidates may be permitted to work under the contract while the background investigation is being conducted at the discretion of MCC/Security. MCC/Security will provide the necessary background investigations forms – which must be submitted via OPM's on-line system – to each contractor candidate, whose Privacy Act protected rights will be protected in that details regarding a negative determination with regard to suitability will only be revealed to the individual contractor candidate by MCC/Security. (Also see "Contract Award" below.)

Contractor candidates for whom unfavorable or derogatory information is developed and/or reported during the background investigation process will be presented to the contractor candidate by MCC/Security and offered an opportunity to refute, explain, clarify or mitigate the information in question. If an ineligibility determination is made by MCC/Security, the contractor candidate will be ineligible to further render services under the contract and access to MCC headquarters and/or any overseas MCC/Resident Country Director offices and/or MCCNet will be immediately terminated if the contractor candidate has been permitted to work in advance of completion of his/her background investigation

The initial ineligibility decision will be communicated by the MCC/Security through the contracting officer and COR to the contractor. The specific reasons for the ineligibility determination will be made available only to the affected contractor candidate directly by MCC/Security.

MCC/Security will follow USG-wide reciprocity mandate per The Intelligence Reform and Terrorism Prevention Act (IRTPA) of 2004, Title III, Sec. 3001 (12/06/2004) and may accept, via reciprocity, a previous investigation meeting or exceeding the MCC required investigation standard (NACLC and fingerprinting) and a related adjudication for a clearance meeting or exceeding the MCC-required clearance. Per IRTPA, the investigation must have been completed within the previous two calendar years. Contractor candidates may be required to submit updated security forms.

MCC/Security's decision to grant a facility access clearance to a contractor candidate will be communicated via the STARS Sharepoint New Hires database and CGM will communicate the requirement for each contractor candidate to the contractor for attend MCC's Orientation Program, which takes place on alternating Mondays at the start of each pay period. All contractor candidates who require on-site facility access and/or MCCNet access are required to attend MCC's Orientation Program which includes a Security Briefing, a badging appointment and an IT Briefing. After attending MCC's Orientation Program, MCC/Security will issue an HSPD-12 compliant MCC Photo ID Badge which will permit the contractor candidate with physical site access to MCC headquarters and will indicate on the face of the badge, the contractor candidate's status as a contractor who does not have access to national security classified information.

B. Contract Employees Not Requiring Facility, MCCNet, or Sensitive Information Access

Contractor candidates hired to work under contracts awarded by MCC who do not require access to MCC Headquarters are preferred to be U.S. citizens or have Permanent Resident Status in the U.S. Employment of any foreign national (FN) working within the U.S. must have been lawfully admitted into the U.S. in accordance with immigration laws with eligibility to work within the U.S. Employment of a FN by MCC outside of the U.S. is subject to applicable security and legal requirements established by the Chief of Mission (a.k.a. Ambassador of the U.S. to the foreign country where the non-U.S. citizen FN will be engaged as an MCC contractor) and the U.S. Department of Treasury. Each Chief of Mission is selected by the Secretary of State at the U.S. Department of State in consultation with The White House Office of Presidential Personnel.

The contractor must provide to MCC/Security the full name, date of birth, place of birth, social security number (except for FN contractors not issued a social security number), home address, work telephone number and a home and/or personal cell telephone number via fax submission of MCC/Security's Personal Information Request Form. MCC/Security will use a contractor candidate's Privacy Act protected Personally Identifiable Information (PII) to screen each contractor candidate through various government databases to determine their suitability and fitness for work under MCC contracts. Additional forms and background information may be requested to verify each contractor candidate's suitability. Contractor personnel may be permitted, at the discretion of MCC/Security, work under the contract while the background investigation is being conducted.

Contractor candidates on whom unfavorable, derogatory or questionable information has been developed will be given an opportunity to refute, explain, clarify or mitigate the information with MCC/Security. If an ineligibility determination is made by MCC/Security, the contractor candidate will be ineligible to further render services under the contract.

The ineligibility determination will be communicated by MCC/Security through the contracting officer and COR to the contractor. The specific reasons for the ineligibility determination will be made available only to the affected individual directly by MCC/Security.

C. Personal Services Contractor Security Clearance Requirements

The number of Personal Services Contractors (PSCs) cleared for access to national security classified information will be limited only to those PSCs encumbering a Full-Time Equivalent (FTE) Federal employee position, based on operational needs requiring the specific PSC to access national security classified information or systems in consultation with MCC's Human Resources Division and only with approval of the Vice President, Department of Administration & Finance. The level of access approved will relate directly to the level of national security classified information (secret = noncritical-sensitive FTE position or top secret = critical-sensitive FTE position) the PSC candidate requires in order to perform their official USG functions.

1. Personal Service Contractors (PSC). MCC/Security is responsible for investigation and clearance actions associated with PSC candidates who are directly compensated by MCC. MCC/Security will process the appropriate level of background investigations and grant appropriate level security clearances for all PSCs where MCC makes payment directly to the individual. The level of background investigation and clearance (secret = noncritical-sensitive or top secret = critical-sensitive) granted will be based on the duties to be performed by the PSC as compared with the position of an MCC Federal employee in a similar position.

PSC candidates will be required to execute background investigation forms, starting with MCC/Security's Personal Information Request Form (which must be completed, signed by the candidate and faxed to MCC/Security at 202-521-3590) as well as a Questionnaire for National Security Positions (SF-86), signature releases and supplemental forms and submit to fingerprint imaging to be reported and reviewed by FBI national databases) and submit to MCC/Security before access to the facility or MCCNet is approved. PSC candidates may be permitted to work, at the discretion of MCC/Security, under the contract while the background investigation is being conducted. MCC/Security will provide the necessary forms to the contractor candidate, will process the background investigation and grant, if interim name checks, credit check and fingerprint report permit, an interim secret-level security clearance and will adjudicate the PSC candidate's final security clearance within twenty (20) days of receipt of the PSC candidate's Report of Investigation (ROI).

Being granted either an interim and/or final security clearance (the latter of which may be granted via reciprocity, per IRTPA, if the PSC candidate has already been investigated and granted a security clearance by another Federal agency) require each PSC candidate to attend an MCC/Security Clearance Briefing and signature on a Classified Information Nondisclosure Agreement (SF-312) before MCC/Security will grant the PSC candidate a security clearance.

MCC/Security's decision to grant an interim or final security clearance to a PSC candidate will be communicated via the STARS SharePoint New Hires database and CGM will communicate the requirement for each PSC candidate to attend MCC's Orientation Program, which takes place on alternating Mondays at the start of each pay period. All PSC candidates who require on-site facility access and/or MCCNet access are required to attend MCC's Orientation Program which includes a Security Briefing, a badging appointment and an IT Briefing. After attending MCC's Orientation Program, MCC/Security will issue an HSPD-12 compliant MCC Photo ID Badge which will permit the PSC candidate with physical site access to MCC headquarters and will indicate on the face of the badge, the PSC candidate's status and level of security clearance granted.

2. Secure Contract Classification. Classified contracts, grants, and cooperative agreements with organizations must comply with the National Industrial Security Program (NISP). Under the provisions of NISP, the Defense Security Service (DSS) will investigate and adjudicate security clearances required for contractor employees to have access to classified information. Organizations (contractors and recipients) and their employees not currently participating in NISP which much conduct classified business with MCC must be sponsored by MCC, another agency, or by company that has been previously cleared. Once the secure contract is awarded, MCC Contracting Officer, in consultation with MCC/Security, will be responsible for completing the Department of Defense Contract Security Classification Specification, DD Form 254.

D. Exceptions to Investigations Requirements

Contractor candidates are exempt from investigative requirements when working in temporary Low Risk Public Trust (LRPT) positions that are intermittent and when not working on an MCC contract in excess of 180 days in either a single continuous assignment or a series of assignments within a 365 day period. LRPT positions involve duties and responsibilities of limited impact on an agency or program mission, with potential for limited impact on the efficiency of the service. Persons occupying these positions will not have unescorted access to the Department of State or its Embassies, Sensitive But Unclassified, Foreign Government Information, MCC-Sensitive information, or require logon access to MCC's computer information network.

Contractor candidates are exempt from investigative requirements when working in a part-time Moderate Risk Public Trust (MRPT) position, as defined in Section 4.18.2 of MCC's Background Investigations and Clearances policy:

Moderate Risk Public Trust (MRPT) Position - Public trust positions in which an incumbent has the potential to have a moderate to serious impact on the integrity and efficiency of the service. Duties involved are considerably important to the agency or program mission with significant program responsibility or delivery of service. Positions include assistants to policy development and implementation; mid-level management duties or assignments; any position with responsibility for independent or semi-independent action; and delivery of service positions that demand public confidence or trust. At this time, MCC staffing of contractor and intern positions are all MRPT positions.

In addition, no part-time MCC MRPT contractor positions may exceed an aggregate of 1,200 hours within a 365 day period in either a single continuous appointment or series of appointments. If a contractor has not been investigated and has not been granted a facility access

clearance by MCC/Security and the contractor's compensated hours approach 1,150 within a 365 day period, the contractor's hours must be closely monitored by contracting officer and COR so as not to exceed 1,200 hours. MCC will not be required to compensate any individual who has not been investigated and who has not been granted a clearance by MCC/Security for hours in excess of 1,200 hours. If work is required in excess of 1,200 hours, the work assignment must be re-advertised and all candidates must re-compete for any additional assignments not to exceed 1,200 hours within another 365 day period.

E. Issuing MCC Access Badges

A Homeland Security Presidential Directive-12 (HSPD-12) compliant MCC Photo ID Badge Federal credential (badge) will be issued to contractors, Personal Services Contractors and Personal Services Contractor-FTEs with a permanent duty station assignment at MCC Headquarters or at an overseas MCC/Resident Country Director Office. Requirements before being issued a badge include submission of required background investigation forms for processing a facility access for a contractor of PSC or a security clearance for a PSC and mandatory attendance at an MCC Orientation Program/Security Briefing which are scheduled on the first business day of the pay period and alternate weeks as determined by MCC's Human Resources Division, and are generally held from 8:45 to 10:00 am, immediately followed by an IT Briefing. In addition, all PSCs whose position has been determined as one which requires access to classified information and whose investigation is sufficient to meet that requirement must attend an MCC/Security Clearance Briefing prior to being granted a security clearance and issued a badge. Due to HSPD-12, visitor badges are no longer available and all newly hired contractors, and PSC-s will require assistance from co-workers until their badge is issued by MCC/Security.

Contractors and PSCs who have undergone a background investigation (or who are in the process of undergoing a background investigation) and who are U.S. citizens may be eligible for 24/7 access to MCC headquarters. All non-U.S. citizen foreign nationals, who hold Permanent Resident Status, who have undergone a background investigation (or who are in the process of undergoing a background investigation) will only be provided unescorted access during regular business hours (Monday through Friday, 7:30 am to 6:30 pm, excluding Federal holidays and other U.S. government closings).

Contractor and PSC candidates who have not submitted the required background investigation forms and attended the required MCC/Security Briefing(s) will not be issued a badge nor building access cards and their access to MCC headquarters will require them to have an appointment which is documented in MCC's Workspeed Access Control System and must be escorted at all times while in MCC headquarters.

F. Work Performance

The contractor shall prescreen all candidates covered under this clause to ensure they initially possess the necessary investigative and clearance requirements. In addition, the contractor is responsible to periodically, at least annually, review their employees' clearance status to ensure

that nothing has occurred which may negatively impact their employees' eligibility for a clearance.

Unless otherwise provided herein in no event will the need to process background investigations and clearances (including physical on-site access at MCC facilities) from MCC/Security be considered an excusable delay under the contract. In addition, the need to replace contract personnel determined by the MCC/Security to be ineligible will not be considered an excusable delay.

Failure to comply with the contractor personnel background investigation and clearance requirements herein may result in termination of the contract for default.

G. Contract Award

Within two (2) business days after notice of award from the contracting officer, contractor shall provide a list of all contractor candidates (and subcontractor candidates) working under the contract (unless otherwise stated in the contract) including the information and documentation required herein. This requirement does not include clerical or administrative support staff (unless otherwise stated in the contract).

The list shall include individual's full name, work and home addresses, work and personal e-mail addresses, work and personal telephone numbers and personal cell telephone numbers. This list shall state and justify the level of access each contractor candidate will require; that is, MCC facility access, access to non-classified sensitive information, MCCNet access, or no access privileges. In addition, the contractor will provide a central point-of-contact regarding background investigation and clearance issues. If the contractor has documentation which evidences an individual contractor candidate's previous/current background investigation and/or clearance status, the contractor will provide the individual contractor candidate's PII and investigations/clearance status to MCC/Security via fax to 202-521-3590 in the form of a Visit Letter. Upon a request from the contractor, a sample Visit Letter template will be made available to a contractor via e-mail from MCC/Security. The contracting officer will ensure that a STARS SharePoint New Hires entry is made for each contractor candidate to ensure that MCC/Security is aware of future on-boarding of each contractor candidate. The contracting officer or COR is responsible to provide MCC/Security's Personal Information Request Form to the contractor with instructions to have each contractor candidate complete, sign and fax to MCC/Security at 202-521-3590 so that their background investigation and clearance process can begin. All involved should be cautioned that the completed and signed Personal Information Request Form not be scanned/e-mailed to anyone at MCC. Once the Personal Information Request Form has been provided to the contractor and/or contractor candidate, it is the contractor's responsibility to assure that the Personal Information Request Form is faxed to MCC/Security at 202-521-3590 within three (3) business days. Once the Personal Information Request Form is received by MCC/Security, the individual contractor candidate's eligibility for a clearance will be determined within three (3) business days. If a contractor candidate does not have a previous background investigation and clearance, MCC/Security will initiate an e-QIP and e-mail instructions to the contractor candidate to complete the investigative requirements (including fingerprinting) within seven (7) calendar days.

(End of clause)

**MCC 52.209-70 ORGANIZATIONAL CONFLICTS OF INTEREST: PRECLUSION
FROM IMPLEMENTATION CONTRACT (JULY 2012)**

Work under this contract may call for the Contractor to furnish important services in support of the design or feasibility of specific activities that may become part of a Millennium Challenge Corporation (MCC) Compact. In accordance with the principles of FAR Subpart 9.5, THE CONTRACTOR MAY BE INELIGIBLE TO FURNISH, AS A PRIME OR SUBCONTRACTOR OR OTHERWISE; THE IMPLEMENTATION SERVICES FOR ANY ACTIVITIES FOR WHICH IT PROVIDES SUBSTANTIAL DESIGN SERVICES EXCEPT FOR SUCH SERVICES THAT MAY BE FURNISHED UNDER THIS CONTRACT. If a determination is made that the contractor is ineligible for implementation services, the MCC Managing Director of Contracts and Grants Management may authorize a waiver (in accordance with FAR 9.503) if the Director determines that preclusion of the Contractor from the implementation contract would not be in the Government's best interest.

(End of clause)

MCC 52.232-70 INVOICE INSTRUCTIONS (MAY 2013)

Invoices shall be paid in accordance with the Prompt Payment Act, thirty days (30) following receipt of a proper invoice. The Contractor shall submit each invoice electronically via email or fax to the following:

Fax: 303.969.5151/7281 ATTN: MCC Payments, or

Email: MCC_Accounting_IBCDENVER@ibc.gov, or

As an alternative to electronic submission of invoices, one copy of each invoice may be submitted to the following address:

Interior Business Center

M/S D-2773

7301 West Mansfield Avenue

Lakewood, CO 80235-2230

If it is determined that the amount billed is incorrect, the invoice may be revised by the Government, or the contractor may be required to submit a revised invoice.

To constitute a proper invoice, each invoice must include the following information and/or attached documentation:

- (1) Name, address and telephone of the Contractor
- (2) Date of invoice and invoice number
- (3) Contract number (including task order or call number and contract line item(s)) also modification number, if applicable

(4) Description (quantity, unit of measure, unit price, and extended price) of the supplies/services rendered (including hours incurred and billing rate, as applicable to the contract)

(5) A schedule depicting the following information:

Amount Invoiced This Period	Cumulative Amount Invoiced	Authorized Value of Contract	Balance Remaining on Contract

If the contractor is billing for costs incurred over more than a single month, the costs for each month in which the costs were incurred and shall be segregated into the month they were actually incurred.

(6) Name of Contracting Officer's Representative (COR); and

(7) Signature of authorized representative of the firm with the following invoice certification:

"The undersigned hereby certifies to the best of my knowledge and belief that: the sum claimed under this contract is proper and due, and all the costs of contract performance have been paid, or to the extent allowed under the applicable payment clause, will be paid by the Contractor when due in the ordinary course of business; the work reflected by these costs has been performed, and amounts involved are consistent with the requirements of this Contract.

BY: _____

TITLE: _____

DATE: _____

Inquiries regarding the status of invoices may be directed to NBC Accounting. The email address is: MCC_Accounting_IBCDENVER@ibc.gov.

(End of clause)

MCC 52.232-71 PAYMENT POLICY FOR INDIVIDUAL CONSULTANTS (INCLUSIVE OF FULL TIME PERSONAL SERVICES CONTRACTORS) (MAY 2013)

a) The following restrictions are applicable for all MCC contracts awarded to individual consultants, inclusive of full time personal services contractors (PSC's):

b) While contractors are working in the United States, the MCC will pay for actual hours worked up to 8 hours a day, 5 days a week.

c) While contractors are working overseas, the MCC will pay for actual hours worked up to 8 hours a day, 6 days a week.

d) The designated Contracting Officer's Representative (COR) shall approve hours worked by all contractors.

(End of clause)

MCC 52.232-74 ODC REIMBURSEMENT (JAN 2007)

Other Direct Charges (ODCs) will be reimbursed for direct costs as provided in the contract and/or task order. To be reimbursed, invoices including ODCs, must provide a detailed breakdown of the actual expenditures invoiced. The contractor shall maintain the original or legible copy of receipts for all ODCs invoiced. MCC reserves the right to request evidence of any ODC reimbursed. To assure timely reimbursement of ODC's, the contractor is strongly encouraged to submit charges within 45 days of the expense.

(End of clause)

MCC 52.237-71 PERSONAL SERVICES – TOTAL COMPENSATION CEILING (JULY 2012)

The position designated for this contract is **Director** and the corresponding pay band designated is **3A**. Throughout the life of the contract, the personal services contractor (PSC) shall be subject to a total compensation ceiling based upon the base pay rate calculated from the maximum salary range identified for the applicable pay band (dollar value divided by 2087 hours) within the applicable current fiscal year salary tables published the Millennium Challenge Corporation, plus pay supplements in lieu of fringe benefits identified at award of the contract.

(End of clause)

MCC 52.237-72 PERSONAL SERVICES –STRUCTURAL ADJUSTMENT (JULY 2012)

Personal Services Contractors may be eligible for annual structural adjustments to cover inflation/cost of living increases as negotiated and effective on the exercise of any option year. The basis of the structural adjustment shall be subject to all of the following conditions:

- a) **Statutory and Annual OPM Pay Adjustments.** Structural adjustments for PSCs will utilize the annual statutory pay adjustments to federal civilian pay for each fiscal year and OPM implemented annual adjustments as a result of these statutory pay adjustments, including locality pay and other structural pay increases, as a basis in calculating structural adjustment increases. If no statutory pay adjustment occurs and OPM does not issue adjustments due to executive orders or legislation mandating pay freezes or other similar circumstances, then PSC may not receive structural adjustment increases; and
- b) **Performance.** The structural adjustment must be supported by a performance evaluation of the PSC indicating that the PSC has met all contract requirements; and
- c) **Subject to the Availability of Funds.** Structural adjustments are subject to availability of funds.

(End of clause)

MCC 52.242-70 CONTRACTOR PERFORMANCE ASSESSMENT RATING SYSTEM (CPARS) REGISTRATION (AUG 2011)

The Millennium Challenge Corporation (MCC) utilizes the Contractor Performance Assessment Rating System (CPARS) to evaluate contractor performance (see FAR, Subparts 42.1502 and 42.1503). Contractors doing business with MCC are required to register in CPARS accessible via the Internet at: <http://www.cpars.csd.disa.mil/cparsmain.htm>. An evaluation of contractor performance using the CPARS is mandatory for all contract actions exceeding \$150,000, but may be conducted for contract actions lower than that amount should significant events occur such as a contract termination or extraordinary contract performance by the contractor. Inquiries regarding the registration process should be addressed to the CPARS help desk. The email address is WEBPTSMH@NAVY.MIL and the telephone number is (207) 438-1690.

(End of clause)

MCC 52.243-70 INCREASE IN SERVICES (OCT 2006)

The services described in Sections B and C (statement of work) represent the Government's best estimate for known requirements at this time. However, due to the uncertainty of the work, the Government reserves the right to add or delete services if the need arises.

(End of clause)

NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE

The following contract clauses pertinent to this section are hereby incorporated by reference (by Citation Number, Title, and Date) in accordance with the clause at FAR "52.252-2 CLAUSES INCORPORATED BY REFERENCE" contained in this document. See FAR 52.252-2 for an internet address (if specified) for electronic access to the full text of a clause.

FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1)

<u>FAR Number</u>	<u>Title</u>	<u>Date</u>
52.202-1	DEFINITIONS	NOV 2013
52.203-3	GRATUITIES	APR 1984
52.203-5	COVENANT AGAINST CONTINGENT FEES	MAY 2014
52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT	SEP 2006
52.203-7	ANTI-KICKBACK PROCEDURES	MAY 2014
52.203-8	CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY	MAY 2014
52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY	MAY 2014
52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS	OCT 2010

52.203-17	CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS	APR 2014
52.204-4	PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER	MAY 2011
52.204-9	PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL	JAN 2011
52.204-10	REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS	JUL 2013
52.204-14	SERVICE CONTRACT REPORTING REQUIREMENTS	JAN 2014
52.209-6	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT	AUG 2013
52.215-2	AUDIT AND RECORDS—NEGOTIATION ALTERNATE III (JUNE 1999)	OCT 2010
52.215-8	ORDER OF PRECEDENCE—UNIFORM CONTRACT FORMAT	OCT 1997
52.219-4	NOTICE OF PRICE EVALUATION PREFERENCE FOR HUBZONE SMALL BUSINESS CONCERNS	OCT 2014
52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS	OCT 2014
52.222-3	CONVICT LABOR	JUN 2003
52.222-21	PROHIBITION OF SEGREGATED FACILITIES	FEB 1999
52.222-26	EQUAL OPPORTUNITY	MAR 2007
52.222-35	EQUAL OPPORTUNITY FOR VETERANS	JUL 2014
52.222-36	EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES	JUL 2014
52.222-37	EMPLOYMENT REPORTS ON VETERANS	JUL 2014
52.222-41	SERVICE CONTRACT LABOR STANDARDS	MAY 2014
52.222-44	FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT LABOR STANDARDS—PRICE ADJUSTMENT	MAY 2014
52.222-50	COMBATING TRAFFICKING IN PERSONS	FEB 2009
52.222-54	EMPLOYMENT ELIGIBILITY VERIFICATION	AUG 2013
52.223-5	POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION	MAY 2011
52.223-6	DRUG-FREE WORKPLACE	MAY 2001
52.223-18	ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING	AUG 2011
52.225-5	TRADE AGREEMENTS	NOV 2013
52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES	JUN 2008
52.227-1	AUTHORIZATION AND CONSENT	DEC 2007
52.227-2	NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT	DEC 2007
52.232-17	INTEREST	MAY 2014
52.232-24	PROHIBITION OF ASSIGNMENT OF CLAIMS	MAY 2014
52.232-25	PROMPT PAYMENT	JUL 2013
52.232-34	PAYMENT BY ELECTRONIC FUNDS TRANSFER—OTHER THAN SYSTEM FOR AWARD MANAGEMENT	JUL 2013
52.232-39	UNENFORCEABILITY OF UNAUTHORIZED OBLIGATIONS	JUN 2013
52.232-40	PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS	DEC 2013
52.233-1	DISPUTES	MAY 2014
52.233-3	PROTEST AFTER AWARD	AUG 1996
52.233-4	APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM	OCT 2004

52.237-2	PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION	APR 1984
52.242-1	NOTICE OF INTENT TO DISALLOW COSTS	APR 1984
52.242-13	BANKRUPTCY	JUL 1995
52.243-3	CHANGES—TIME-AND-MATERIALS OR LABOR-HOURS	SEP 2000
52.244-2	SUBCONTRACTS	OCT 2010
52.244-6	SUBCONTRACTS FOR COMMERCIAL ITEMS	MAR 2015
52.245-1	GOVERNMENT PROPERTY	APR 2012
52.245-9	USE AND CHARGES	APR 2012
52.246-25	LIMITATION OF LIABILITY—SERVICES	FEB 1997
52.249-6	TERMINATION (COST-REIMBURSEMENT) ALTERNATE IV (SEP 1996)	SEP 1996
52.253-1	COMPUTER GENERATED FORMS	JAN 1991

(End of clause)

52.203-16 PREVENTING PERSONAL CONFLICTS OF INTEREST (DEC 2011)

(a) Definitions. As used in this clause—

"Acquisition function closely associated with inherently governmental functions" means supporting or providing advice or recommendations with regard to the following activities of a Federal agency:

- (1) Planning acquisitions.
- (2) Determining what supplies or services are to be acquired by the Government, including developing statements of work.
- (3) Developing or approving any contractual documents, to include documents defining requirements, incentive plans, and evaluation criteria.
- (4) Evaluating contract proposals.
- (5) Awarding Government contracts.
- (6) Administering contracts (including ordering changes or giving technical direction in contract performance or contract quantities, evaluating contractor performance, and accepting or rejecting contractor products or services).
- (7) Terminating contracts.
- (8) Determining whether contract costs are reasonable, allocable, and allowable.

"Covered employee" means an individual who performs an acquisition function closely associated with inherently governmental functions and is—

- (1) An employee of the contractor; or
- (2) A subcontractor that is a self-employed individual treated as a covered employee of the contractor because there is no employer to whom such an individual could submit the required disclosures.

"Non-public information" means any Government or third-party information that—

(1) Is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552) or otherwise protected from disclosure by statute, Executive order, or regulation; or

(2) Has not been disseminated to the general public and the Government has not yet determined whether the information can or will be made available to the public.

"Personal conflict of interest" means a situation in which a covered employee has a financial interest, personal activity, or relationship that could impair the employee's ability to act impartially and in the best interest of the Government when performing under the contract. (A de minimis interest that would not "impair the employee's ability to act impartially and in the best interest of the Government" is not covered under this definition.)

(1) Among the sources of personal conflicts of interest are—

(i) Financial interests of the covered employee, of close family members, or of other members of the covered employee's household;

(ii) Other employment or financial relationships (including seeking or negotiating for prospective employment or business); and

(iii) Gifts, including travel.

(2) For example, financial interests referred to in paragraph (1) of this definition may arise from—

(i) Compensation, including wages, salaries, commissions, professional fees, or fees for business referrals;

(ii) Consulting relationships (including commercial and professional consulting and service arrangements, scientific and technical advisory board memberships, or serving as an expert witness in litigation);

(iii) Services provided in exchange for honorariums or travel expense reimbursements;

(iv) Research funding or other forms of research support;

(v) Investment in the form of stock or bond ownership or partnership interest (excluding diversified mutual fund investments);

(vi) Real estate investments;

(vii) Patents, copyrights, and other intellectual property interests; or

(viii) Business ownership and investment interests.

(b) Requirements. The Contractor shall—

(1) Have procedures in place to screen covered employees for potential personal conflicts of interest, by—

(i) Obtaining and maintaining from each covered employee, when the employee is initially assigned to the task under the contract, a disclosure of interests that might be affected by the task to which the employee has been assigned, as follows:

(A) Financial interests of the covered employee, of close family members, or of other members of the covered employee's household.

(B) Other employment or financial relationships of the covered employee (including seeking or negotiating for prospective employment or business).

(C) Gifts, including travel; and

(ii) Requiring each covered employee to update the disclosure statement whenever the employee's personal or financial circumstances change in such a way that a new personal conflict of interest might occur because of the task the covered employee is performing.

(2) For each covered employee—

(i) Prevent personal conflicts of interest, including not assigning or allowing a covered employee to perform any task under the contract for which the Contractor has identified a personal conflict of interest for the employee that the Contractor or employee cannot satisfactorily prevent or mitigate in consultation with the contracting agency;

(ii) Prohibit use of non-public information accessed through performance of a Government contract for personal gain; and

(iii) Obtain a signed non-disclosure agreement to prohibit disclosure of non-public information accessed through performance of a Government contract.

(3) Inform covered employees of their obligation—

(i) To disclose and prevent personal conflicts of interest;

(ii) Not to use non-public information accessed through performance of a Government contract for personal gain; and

(iii) To avoid even the appearance of personal conflicts of interest;

(4) Maintain effective oversight to verify compliance with personal conflict-of-interest safeguards;

(5) Take appropriate disciplinary action in the case of covered employees who fail to comply with policies established pursuant to this clause; and

(6) Report to the Contracting Officer any personal conflict-of-interest violation by a covered employee as soon as it is identified. This report shall include a description of the violation and the proposed actions to be taken by the Contractor in response to the violation. Provide follow-up reports of corrective actions taken, as necessary. Personal conflict-of-interest violations include—

(i) Failure by a covered employee to disclose a personal conflict of interest;

(ii) Use by a covered employee of non-public information accessed through performance of a Government contract for personal gain; and

(iii) Failure of a covered employee to comply with the terms of a non-disclosure agreement.

(c) Mitigation or waiver. (1) In exceptional circumstances, if the Contractor cannot satisfactorily prevent a personal conflict of interest as required by paragraph (b)(2)(i) of this clause, the Contractor may submit a request through the Contracting Officer to the Head of the Contracting Activity for—

(i) Agreement to a plan to mitigate the personal conflict of interest; or

(ii) A waiver of the requirement.

(2) The Contractor shall include in the request any proposed mitigation of the personal conflict of interest.

(3) The Contractor shall—

(i) Comply, and require compliance by the covered employee, with any conditions imposed by the Government as necessary to mitigate the personal conflict of interest; or

(ii) Remove the Contractor employee or subcontractor employee from performance of the contract or terminate the applicable subcontract.

(d) Subcontract flowdown. The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts—

(1) That exceed \$150,000; and

(2) In which subcontractor employees will perform acquisition functions closely associated with inherently governmental functions (i.e., instead of performance only by a self-employed individual).

(End of Clause)

52.204-1 APPROVAL OF CONTRACT (DEC 1989)

This contract is subject to the written approval of the Contracting Officer, and shall not be binding until so approved.

(End of Clause)

52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within 15 days.

(End of Clause)

52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)

(a) The Government may extend the term of this contract by written notice to the Contractor within 0 days; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 30 days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed five (5) years.

(End of Clause)

52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (JUL 2013)

(a) Definitions. As used in this clause—

Long-term contract means a contract of more than five years in duration, including options. However, the term does not include contracts that exceed five years in duration because the period of performance has been extended for a cumulative period not to exceed six months under the clause at 52.217-8, Option to Extend Services, or other appropriate authority.

Small business concern means a concern, including its affiliates that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (c) of this clause. Such a concern is "not dominant in its field of operation" when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

(b) If the Contractor represented that it was a small business concern prior to award of this contract, the Contractor shall represent its size status according to paragraph (e) of this clause or, if applicable, paragraph (g) of this clause, upon the occurrence of any of the following:

(1) Within 30 days after execution of a novation agreement or within 30 days after modification of the contract to include this clause, if the novation agreement was executed prior to inclusion of this clause in the contract.

(2) Within 30 days after a merger or acquisition that does not require a novation or within 30 days after modification of the contract to include this clause, if the merger or acquisition occurred prior to inclusion of this clause in the contract.

(3) For long-term contracts—

(i) Within 60 to 120 days prior to the end of the fifth year of the contract; and

(ii) Within 60 to 120 days prior to the date specified in the contract for exercising any option thereafter.

(c) The Contractor shall represent its size status in accordance with the size standard in effect at the time of this representation that corresponds to the North American Industry Classification System (NAICS) code assigned to this contract. The small business size standard corresponding to this NAICS code can be found at <http://www.sba.gov/content/table-small-business-size-standards>.

(d) The small business size standard for a Contractor providing a product which it does not manufacture itself, for a contract other than a construction or service contract, is 500 employees.

(e) Except as provided in paragraph (g) of this clause, the Contractor shall make the representation required by paragraph (b) of this clause by validating or updating all its representations in the Representations and Certifications section of the System for Award Management (SAM) and its other data in SAM, as necessary, to ensure that they reflect the Contractor's current status. The Contractor shall notify the contracting office in writing within the timeframes specified in paragraph (b) of this clause that the data have been validated or updated, and provide the date of the validation or update.

(f) If the Contractor represented that it was other than a small business concern prior to award of this contract, the Contractor may, but is not required to, take the actions required by paragraphs (e) or (g) of this clause.

(g) If the Contractor does not have representations and certifications in SAM, or does not have a representation in SAM for the NAICS code applicable to this contract, the Contractor is required to complete the following representation and submit it to the contracting office, along with the contract number and the date on which the rerepresentation was completed:

The Contractor represents that it [] is, [] is not a small business concern under NAICS Code 541990 assigned to contract number **MCC-15-PSC-XXXX**.

[Contractor to sign and date and insert authorized signer's name and title].

(End of Clause)

52.232-7 PAYMENTS UNDER TIME-AND-MATERIALS AND LABOR-HOUR CONTRACTS (AUG 2012)

The Government will pay the Contractor as follows upon the submission of vouchers approved by the Contracting Officer or the authorized representative:

(a) Hourly rate.

(1) Hourly rate means the rate(s) prescribed in the contract for payment for labor that meets the labor category qualifications of a labor category specified in the contract that are—

(i) Performed by the Contractor;

(ii) Performed by the subcontractors; or

(iii) Transferred between divisions, subsidiaries, or affiliates of the Contractor under a common control.

(2) The amounts shall be computed by multiplying the appropriate hourly rates prescribed in the Schedule by the number of direct labor hours performed.

(3) The hourly rates shall be paid for all labor performed on the contract that meets the labor qualifications specified in the contract. Labor hours incurred to perform tasks for which labor qualifications were specified in the contract will not be paid to the extent the work is performed by employees that do not meet the qualifications specified in the contract, unless specifically authorized by the Contracting Officer.

(4) The hourly rates shall include wages, indirect costs, general and administrative expense, and profit. Fractional parts of an hour shall be payable on a prorated basis.

(5) Vouchers may be submitted not more than once every two weeks, to the Contracting Officer or authorized representative. A small business concern may receive more frequent payments than every two weeks. The Contractor shall substantiate vouchers (including any subcontractor hours reimbursed at the hourly rate in the schedule) by evidence of actual payment and by—

(i) Individual daily job timekeeping records;

(ii) Records that verify the employees meet the qualifications for the labor categories specified in the contract; or

(iii) Other substantiation approved by the Contracting Officer.

(6) Promptly after receipt of each substantiated voucher, the Government shall, except as otherwise provided in this contract, and subject to the terms of paragraph (e) of this clause, pay the voucher as approved by the Contracting Officer or authorized representative.

(7) Unless otherwise prescribed in the Schedule, the Contracting Officer may unilaterally issue a contract modification requiring the Contractor to withhold amounts from its billings until a reserve is set aside in an amount that the Contracting Officer considers necessary to protect the Government's interests. The Contracting Officer may require a withhold of 5 percent of the amounts due under paragraph (a) of this clause, but the total amount withheld for the contract shall not exceed \$50,000. The amounts withheld shall be retained until the Contractor executes and delivers the release required by paragraph (g) of this clause.

(8) Unless the Schedule prescribes otherwise, the hourly rates in the Schedule shall not be varied by virtue of the Contractor having performed work on an overtime basis. If no overtime rates are provided in the Schedule and overtime work is approved in advance by the Contracting Officer, overtime rates shall be negotiated. Failure to agree upon these overtime rates shall be treated as a dispute under the Disputes clause of this contract. If the Schedule provides rates for overtime, the premium portion of those rates will be reimbursable only to the extent the overtime is approved by the Contracting Officer.

(b) Materials.

(1) For the purposes of this clause—

(i) Direct materials means those materials that enter directly into the end product, or that are used or consumed directly in connection with the furnishing of the end product or service.

(ii) Materials means—

(A) Direct materials, including supplies transferred between divisions, subsidiaries, or affiliates of the Contractor under a common control;

(B) Subcontracts for supplies and incidental services for which there is not a labor category specified in the contract;

(C) Other direct costs (e.g., incidental services for which there is not a labor category specified in the contract, travel, computer usage charges, etc.); and

(D) Applicable indirect costs.

(2) If the Contractor furnishes its own materials that meet the definition of a commercial item at 2.101, the price to be paid for such materials shall not exceed the Contractor's established catalog or market price, adjusted to reflect the—

(i) Quantities being acquired; and

(ii) Actual cost of any modifications necessary because of contract requirements.

(3) Except as provided for in paragraph (b)(2) of this clause, the Government will reimburse the Contractor for allowable cost of materials provided the Contractor—

(i) Has made payments for materials in accordance with the terms and conditions of the agreement or invoice; or

(ii) Ordinarily makes these payments within 30 days of the submission of the Contractor's payment request to the Government and such payment is in accordance with the terms and conditions of the agreement or invoice.

(4) Payment for materials is subject to the Allowable Cost and Payment clause of this contract. The Contracting Officer will determine allowable costs of materials in accordance with Subpart 31.2 of the Federal Acquisition Regulation (FAR) in effect on the date of this contract.

(5) The Contractor may include allocable indirect costs and other direct costs to the extent they are—

(i) Comprised only of costs that are clearly excluded from the hourly rate;

(ii) Allocated in accordance with the Contractor's written or established accounting practices; and

(iii) Indirect costs are not applied to subcontracts that are paid at the hourly rates.

(6) To the extent able, the Contractor shall—

(i) Obtain materials at the most advantageous prices available with due regard to securing prompt delivery of satisfactory materials; and

(ii) Take all cash and trade discounts, rebates, allowances, credits, salvage, commissions, and other benefits. When unable to take advantage of the benefits, the Contractor shall promptly notify the Contracting Officer and give the reasons. The Contractor shall give credit to the Government for cash and trade discounts, rebates, scrap, commissions, and other amounts that have accrued to the benefit of the Contractor, or would have accrued except for the fault or neglect of the Contractor. The Contractor shall not deduct from gross costs the benefits lost without fault or neglect on the part of the Contractor, or lost through fault of the Government.

(7) Except as provided for in 31.205-26(e) and (f), the Government will not pay profit or fee to the prime Contractor on materials.

(c) If the Contractor enters into any subcontract that requires consent under the clause at 52.244-2, Subcontracts, without obtaining such consent, the Government is not required to reimburse the Contractor for any costs incurred under the subcontract prior to the date the Contractor obtains the required consent. Any reimbursement of subcontract costs incurred prior to the date the consent was obtained shall be at the sole discretion of the Government.

(d) Total cost. It is estimated that the total cost to the Government for the performance of this contract shall not exceed the ceiling price set forth in the Schedule, and the Contractor agrees to use its best efforts to perform the work specified in the Schedule and all obligations under this contract within such ceiling price. If at any time the Contractor has reason to believe that the hourly rate payments and material costs that will accrue in performing this contract in the next succeeding 30 days, if added to all other payments and costs previously accrued, will exceed 85 percent of the ceiling price in the Schedule, the Contractor shall notify the Contracting Officer giving a revised estimate of the total price to the Government for performing this contract with supporting reasons and documentation. If at any time during performing this contract, the Contractor has reason to believe that the total price to the Government for performing this contract will be substantially greater or less than the then stated ceiling price, the Contractor shall so notify the Contracting Officer, giving a revised estimate of the total price for performing this contract, with supporting reasons and documentation. If at any time during performing this contract, the Government has reason to believe that the work to be required in performing this contract will be substantially greater or less than the stated ceiling price, the Contracting Officer will so advise the Contractor, giving the then revised estimate of the total amount of effort to be required under the contract.

(e) Ceiling price. The Government will not be obligated to pay the Contractor any amount in excess of the ceiling price in the Schedule, and the Contractor shall not be obligated to continue performance if to do so would exceed the ceiling price set forth in the Schedule, unless and until the Contracting Officer notifies the Contractor in writing that the ceiling price has been increased and specifies in the notice a revised ceiling that shall constitute the ceiling price for performance under this contract. When and to the extent that the ceiling price set forth in the Schedule has been increased, any hours expended and material costs incurred by the Contractor in excess of the ceiling price before the increase shall be allowable to the same extent as if the hours expended and material costs had been incurred after the increase in the ceiling price.

(f) Audit. At any time before final payment under this contract, the Contracting Officer may request audit of the vouchers and supporting documentation. Each payment previously made shall be subject to reduction to the extent of amounts, on preceding vouchers, that are found by the Contracting Officer or authorized representative not to have been properly payable and shall also be subject to reduction for overpayments or to increase for underpayments. Upon receipt and approval of the voucher designated by the Contractor as the "completion voucher" and supporting documentation, and upon compliance by the Contractor with all terms of this contract (including, without limitation, terms relating to patents and the terms of paragraph (g) of this clause), the Government shall promptly pay any balance due the Contractor. The completion voucher, and supporting documentation, shall be submitted by the Contractor as promptly as practicable following completion of the work under this contract, but in no event later than 120 days (or such longer period as the Contracting Officer may approve in writing) from the date of completion.

(g) Assignment and Release of Claims. The Contractor, and each assignee under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, a release discharging the Government, its officers, agents, and employees of and from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

(1) Specified claims in stated amounts, or in estimated amounts if the amounts are not susceptible of exact statement by the Contractor.

(2) Claims, together with reasonable incidental expenses, based upon the liabilities of the Contractor to third parties arising out of performing this contract, that are not known to the Contractor on the date of the execution of the release, and of which the Contractor gives notice in writing to the Contracting Officer not more than 6 years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier.

(3) Claims for reimbursement of costs (other than expenses of the Contractor by reason of its indemnification of the Government against patent liability), including reasonable incidental expenses, incurred by the Contractor under the terms of this contract relating to patents.

(h) Interim payments on contracts for other than services.

(1) Interim payments made prior to the final payment under the contract are contract financing payments. Contract financing payments are not subject to the interest penalty provisions of the Prompt Payment Act.

(2) The designated payment office will make interim payments for contract financing on the 30TH day after the designated billing office receives a proper payment request. In the event that the Government requires an audit or other review of a specific payment request to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the specified due date.

(i) Interim payments on contracts for services. For interim payments made prior to the final payment under this contract, the Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR part 1315.

(End of Clause)

52.249-14 EXCUSABLE DELAYS (APR 1984)

(a) Except for defaults of subcontractors at any tier, the Contractor shall not be in default because of any failure to perform this contract under its terms if the failure arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of these causes are (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. "Default" includes failure to make progress in the work so as to endanger performance.

(b) If the failure to perform is caused by the failure of a subcontractor at any tier to perform or make progress, and if the cause of the failure was beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be deemed to be in default, unless--

(1) The subcontracted supplies or services were obtainable from other sources;

(2) The Contracting Officer ordered the Contractor in writing to purchase these supplies or services from the other source; and

(3) The Contractor failed to comply reasonably with this order.

(c) Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of the failure. If the Contracting Officer determines that any failure to perform results from one or more of the causes above, the delivery schedule shall be revised, subject to the rights of the Government under the termination clause of this contract.

(End of Clause)

52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

<http://www.acquisition.gov/far/index.htm>

<http://intranet.mcc.gov>

<http://www.arnet.gov/far>

(End of Clause)